IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 23915 of 2005(V)

AGAINST THE ORDER DATED 07/07/2005 IN IA 1018/2005 IN OS.403/2004 of PRL.MUNSIFF, KASARAGOD

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PETITIONER:

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1. V.M. BABU, S/O. V.P.MARKOSE.

2. GRACY BABU, W/O. BABU,
BOTH THE PETITIONERS ARE RESIDING AT
VALLUKKATTIL HOUSE, PALLATHADKA POST,
BADIADKA VILLAGE, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS:

GANESH, S/O. KALANGAMBU,
BADIADKA HOUSE, PARADALA POST BADIADKA VILLAGE,
KASARAGOD.

BY ADV. SRI.SURESH KUMAR KODOTH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN,J

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W.P.(C).No.23915 of 2005

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Dated this the 14th day of June, 2007

JUDGMENT

This writ petition is filed seeking to quash Ext.P4 Order. The trial court refused an application filed by the writ petitioner to remit back the Commissioner's plan and report. The main grievance of the writ petitioner is that the Commissioner has failed to note about the approximate age of the wall. According to him the wall must be aged more than 40 years. The Commissioner in para 5 of the report has mentioned that he is not in a position to assess the age of the compound wall even approximately. But according to him, it is an old compound wall. So when the Commissioner has expressed his inability to assess the approximate age of the wall, there is no meaning in remitting the report to the the same commissioner and to direct him to inspect the property to assess the age of the wall. As rightly pointed out by the trial court it is a matter of evidence and the parties can substantiate their contention regarding the age of the wall by adducing acceptable evidence. No purpose

will be served by remitting the Commissioner's Report. The order does not suffer from any infirmity. So the writ petition is dismissed.

M.N.KRISHNAN,JUDGE

dvs